

CITY COUNCIL AGENDA ITEM COVER MEMO

Agenda Item Number _____

Meeting Type: Regular

Meeting Date: 7/25/2013

Action Requested By:
Legal

Agenda Item Type
Resolution

Subject Matter:

License Agreement for right-of-way along Kildare Street.

Exact Wording for the Agenda:

Resolution authorizing the Mayor to enter into a License Agreement between the City of Huntsville and Dwight Wright for property along Kildare Street.

Note: If amendment, please state title and number of the original

Item to be considered for: Action

Unanimous Consent Required: No

Briefly state why the action is required; why it is recommended; what Council action will provide, allow and accomplish and; any other information that might be helpful.

Associated Cost:

Budgeted Item: Not applicable

MAYOR RECOMMENDS OR CONCURS: Yes

Department Head: 

Date: 1-23-13

RESOLUTION NO, 13-_____

BE IT RESOLVED by the City Council of the City of Huntsville, Alabama, that the Mayor be, and he is hereby authorized to enter into a License Agreement by and between the City of Huntsville and Dwight Wright, on behalf of the City of Huntsville, a municipal corporation in the State of Alabama, which said agreement is substantially in words and figures similar to that certain document attached hereto and identified as "License Agreement between the City of Huntsville and Dwight Wright," consisting of three (3) pages including Exhibit A, and the date of July 25, 2013, appearing on the margin of the first page, together with the signature of the President or President Pro Tem of the City Council, an executed copy of said document being permanently kept on file in the Office of the City Clerk-Treasurer of the City of Huntsville, Alabama.

ADOPTED this the 25th day of July, 2013.

President of the City Council of
the City of Huntsville, Alabama

APPROVED this the 25th day of July, 2013.

Mayor of the City of
Huntsville, Alabama

LICENSE AGREEMENT

This License Agreement ("Agreement") is made and entered into effective the _____ day of _____, 2013, by and between the City of Huntsville, a municipality within the State of Alabama, ("City" or "Licensor") and Dwight Wright ("Wright" or "Licensee").

WITNESSETH:

WHEREAS, Wright owns all that part of Lots 13 and 14, Block X, of the Resubdivision of Blocks N, S, X of Kildare Estates Subdivision, as recorded in Plat Book 1, Page 169, Probate Records of Madison County, Alabama, consisting of approximately 1.14 acres, said property is more particularly described in the certain deed recorded at Instrument No. 20071130000832660, Probate Records of Madison County, Alabama (hereinafter referred to as "Property"); and

WHEREAS, the Property is subject to a certain right-of-way in favor of the City which runs down the east boundary of the Property along Kildare Street; and

WHEREAS, Wright desires to construct a fence within the right-of-way, along the boundary of the Property, to secure the Property and prevent trespassing; and

WHEREAS, the City desires to allow Wright to construct the fence within the right-of-way to secure the Property subject to the terms and conditions of this Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by Licensor, and for the mutual promises and covenants contained herein, the parties hereby agree as follows:

1. License. Licensor does hereby grant and demise unto Licensee a license to construct a fence upon and within the right-of-way of the Property. The fence shall be located as shown on the survey which is attached hereto as Exhibit A. Licensee shall be required to maintain the fence in good condition and repair and shall further maintain the grass, any shrubbery, and other landscape in that portion of the right-of-way within the fenced area.

2. Temporary Removal. Licensee agrees to remove the fence, as his sole cost and expense, for any work the City might need to perform within the designated right-of-way for such time period as is required by the City. Licensee will bear the cost and burden of reconstructing the fence in its original location upon completion of the City's work.

3. Revocation. Licensor hereby retains the right to revoke this Agreement at any time in its sole discretion without further liability to the Licensee.

4. Cooperation. All parties agree to take any necessary actions and to execute any documents necessary to consummate the transactions contemplated hereunder.

5. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, executors, administrators, representatives, and assigns.

6. Definitions. Each and every reference to a party, and any and all pronouns describing a party, shall include male or female, singular and plural, corporation or corporations, individual or individuals, as may fit the particular party or parties. All captions are descriptive only.

7. Execution by Counterpart Originals. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same instrument.

8. Waiver. The failure of any party to insist upon strict compliance with any of the provisions of this Agreement by another party shall not constitute a waiver of such party's right to demand exact compliance with said provisions.

9. Entire Agreement. This Agreement constitutes the entire agreement between the parties with regard to the subject matter hereof. No other understanding, inducement, representation, or agreement shall be of any force or effect except as otherwise specifically provided for or referred to herein. This Agreement may not be altered or amended except in writing signed by all parties.

10. Fees and Expenses. Each party shall bear its own fees and expenses, including, without limitation, fees and expenses of its counsel in connection with the transactions contemplated hereby.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

THE CITY OF HUNTSVILLE, ALABAMA

ATTEST:

By: _____
TOMMY BATTLE
Its: Mayor

CHARLES E. HAGOOD
Its: Clerk-Treasurer

DWIGHT WRIGHT

Witness

EXHIBIT "A"

